IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.3555 of 2006
Date of decision : 22.9.2006.

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Parties Name

Ramavtar

..... appellant.

vs.

Smt. Sharda Devi

.....Respondent

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Sh. Rajesh Garg, Advocate
for the appellant.

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S.N. Aggarwal, J.

Ramavtar-appellant was the owner of the shop in dispute. It was under tenancy with Kailash Chand, husband of Sharda Devi-respondent. As per the version of the respondent, Ramavtar had executed an agreement of sale on 3.12.1993 for the shop in dispute in favour of the respondent for an amount of Rs.50,000/-. Rs. 38,000/- were paid as earnest money and the balance amount of Rs.12,000/- was payable on the date of execution and registration of the sale deed i.e. 3.6.1994. The appellant failed to execute the sale deed on which Sharda Devi filed the suit for specific performance.

The suit was contested by the appellant. It was specifically denied if he had ever executed any agreement of sale in favour of the

respondent. All the allegations made by the respondent were denied.

Issues were framed. The parties led the evidence. The learned trial Court held that the appellant had executed the agreement of sale dated 3.12.1993. He had also received a sum of Rs.38,000/- as earnest money. The balance amount of Rs.12,000/- was payable on the date of the execution of the sale deed. The respondent was always ready and willing to perform her part of the agreement. Accordingly, the suit filed by the respondent for specific performance of the agreement of sale dated 3.12.1993 was decreed by the learned trial Court vide judgment and decree dated 9.2.2004.

The appellant filed the appeal. The learned Lower Appellate Court upheld the findings of fact recorded by the learned trial Court and dismissed the appeal vide judgment and decree dated 7.3.2006.

Hence, the present appeal.

The submission of the learned counsel for the appellant was that the appellant had examined the document expert, who had proved that the said agreement of sale was not signed by the appellant. Hence, it was prayed that the execution of the alleged agreement of sale dated 3.12.1993 by the appellant in favour of the respondent is not proved.

This submission has no merits. The learned trial Court has observed that the respondent has examined not only Sita Ram, deed writer as PW-1, she has also examined Ramesh Chand, attesting witness as PW-2 and Hoshiar Singh, attesting witness as PW-3. She herself appeared as PW-4. The attesting witnesses and the deed writer have specifically proved that the agreement of sale dated 3.12.1993

was executed by the appellant in favour of the respondent and he had signed it after admitting the contents to be true.

The document expert examined by the appellant was disbelieved by the learned Courts below. Moreover, he was the witness of the appellant and was supposed to depose in his favour. His testimony is of no consequence in the face of the evidence led by the respondent, namely, the deed writer and the attesting witnesses. This Court finds this circumstance to be of no consequence to throw over the board the concurrent findings of fact recorded by the learned Courts below.

No substantial question of law arises.

There is no merit in the present appeal and the same is dismissed.

(S.N.Aggarwal)
Judge

22.9.2006.
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